

David M. Marcus
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
SHAW FAMILY ARCHIVES, LTD., EDITH MARCUS :
and META STEVENS, :

Plaintiffs, :

-against- :

CMG WORLDWIDE, INC., an Indiana Corporation and :
MARILYN MONROE, LLC., a Delaware Limited :
Liability Company, :

Defendants. :
-----X

Index No.: 05 CV 3939(CM)

Honorable Colleen McMahon

DECLARATION OF PERSON MOVING FOR ADMISSION

David M. Marcus, being duly sworn says:

1. I represent Plaintiff/Consolidated Defendant Shaw Family Archives, Ltd., Consolidated Defendant Bradford Licensing Associates, Plaintiff Edith Marcus and Plaintiff Meta Stevens (the "Shaw Family") in the above-captioned action. I have been a member of the bar of this Court since November 16, 2006. I make this declaration in support of the Shaw Family's motion, pursuant to Rule 1.3(c) of the Local Civil Rules of this Court, for admission of Marci Hamilton to the bar of this Court *Pro Hac Vice*.

2. Marci Hamilton is a Constitutional Law professor at the Benjamin N. Cardozo School of Law in New York, New York and is a member in good standing of the bar of the State of Pennsylvania and the District of Columbia. (See the Certificates issued by the State of Pennsylvania and the District of Columbia, annexed to Marci Hamilton's Declaration as Exhibit A). Professor Hamilton is familiar with the Federal Rules of Civil Procedure and has familiarized herself with the Rules of this Court.

3. In a memo endorsed order, dated December 7, 2007, this Court granted the Shaw Family permission to challenge the constitutionality of California Civil Code Sec. 3344.1. (See a copy of this Court's memo endorsed order dated December 7, 2007 annexed hereto as Exhibit A).

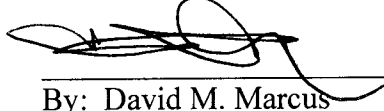
The Shaw Family requests that Professor Marci Hamilton be admitted to the bar of this Court, *Pro Hac Vice*, for the purpose of appearing on the brief on behalf of the Shaw Family and appearing for oral argument, if necessary.

4. Defendants/Consolidated Plaintiffs' attorneys were made aware of this motion and have stated that they have no opposition to the *Pro Hac Vice* admission.

5. Accordingly, I respectfully request that Professor Hamilton be admitted to the bar of this Court, *Pro Hac Vice*.

Dated: New York, New York
March 12, 2008

LAW OFFICES OF CHRISTOPHER SERBAGI



By: David M. Marcus
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Fax: (212) 308-8582

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USDC SDNY
DOCUMENT
ELECTRONICALLY FILED

DOC #:

DATE FILED: 12/7/07

MEMO ENDORSED

December 6, 2007

Via Facsimile

Honorable Colleen McMahon

United States District Court

500 Pearl Street, Room 640

New York, New York 10007

Re: Shaw Family Archives, Ltd. et al. v. CMG Worldwide, Inc. et al.
Index. No. 05 CV 3939 (CM)

Dear Judge McMahon:

I represent the Plaintiffs in the above-entitled action. Pursuant to the Court's Order dated November 29, 2007, the Plaintiffs respectfully respond as follows:

First, the Plaintiffs intend to argue that the 1997 amendment (SB 771) to the California right of publicity statute is facially unconstitutional on, *inter alia*, due process grounds. The California statute is unconstitutionally retroactive because it attaches new legal consequences to events completed before its enactment and deprives private persons of vested property rights. Plaintiffs also will ask the Court to rule on certain issues of statutory construction. The Plaintiffs have retained a leading Constitutional scholar, Professor Marci Hamilton (former law clerk to Justice Sandra Day O'Connor) to serve as Plaintiffs' consultant, and possibly co-counsel in this litigation. We are available at the Court's convenience to set a briefing schedule, but we respectfully request until January 31, 2007 to submit our opening brief.

Second, to facilitate the trial on the issue of Ms. Monroe's domicile, the Plaintiffs intend to file a summary judgment motion on the issue of whether the Defendants should be judicially and/or collaterally estopped from arguing that Ms. Monroe died anything but a New York domiciliary. The Court may recall that, despite what these Defendants now represent, their documents included a treasure trove of submissions that the Estate filed in the New York Surrogate's Court, California Superior Court, and Hawaii federal district court, where they repeatedly swore, under oath, that Marilyn Monroe died a New York domiciliary. Until this litigation, neither the Estate nor Ms. Strasberg ever argued that Ms. Monroe died a California domiciliary. The parties appeared before the Court on March 12, 2007 and the Court Ordered that the Plaintiffs submit a supplemental brief by March 26, 2007. The Plaintiffs (represented by two solo practitioners) had to rush through 60,000 documents and we were not provided with the opportunity to reply to the Defendants' opposition brief. Further, the Court never addressed

I will write by hand note
re: the summary judgment motion
still open

date
OK
Colleen McMahon
12/7/07

CHRISTOPHER SERBAGI, ESQ.

whether judicial or collateral estoppel applies because it was not necessary to its May 2, 2007 Decision and Order. In light of the new California legislation, we would like to fully brief this issue. Accordingly, the Plaintiffs respectfully request until January 31, 2007 to submit a summary judgment brief on judicial and collateral estoppel in support of their Ninth Cause of Action. Plaintiffs will argue that these Defendants are precluded from arguing anything other than what they argued for the last forty-five years --- Ms. Monroe died a New York domiciliary. *LSH*

Third, to further streamline this litigation, Plaintiffs hereby request that the Court withdraw their First and Second Causes of Action (the copyright claims) without prejudice. We will set forth the basis for this request in a short letter brief, where we will also ask the Court to reconsider its decision to dismiss Counts three through eight "with prejudice." Virtually no discovery was conducted on any of the counts that the Plaintiffs agreed to withdraw, no depositions taken, and the reason for the Plaintiffs' request is simply that they do not have the resources to litigate all these claims, especially since the recent passing of Larry Shaw, the Shaw Family principal. Plaintiffs brought these claims in good faith and we believe that Second Circuit case law supports a dismissal without prejudice. We will submit this letter brief by December 10, 2007.

So the Court is aware, the parties are engaging in significant discovery during the month of December, including 30(b)(6) depositions by each party. Plaintiffs are doing their utmost to streamline this litigation. We thank the Court for considering the foregoing issues.

Respectfully Submitted,

Christopher Serbagi
Christopher Serbagi

cc: Paula Colbath, Esq.
Ted Minch, Esq.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Honorable Colleen McMahon

Plaintiffs, :

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Liability Company, :

Defendants. :
-----X

DECLARATION OF PARTY SEEKNG ADMISSION

Marci A. Hamilton, being duly sworn says:

1. I am an attorney and constitutional law expert, specializing in constitutional issues including the constitutionality of retroactive legislation. I hold the Paul R. Verkuil Chair in Public Law at the Benjamin N. Cardozo School of Law, 55 Fifth Avenue, New York, New York 10003. During the 2007-08 academic year, I am a Visiting Professor of Public Affairs at the Woodrow Wilson School, and the Kathleen and Martin Crane Senior Fellow in the Program in Law and Public Affairs, Princeton University. I represent Plaintiff/Consolidated Defendant Shaw Family Archives, Ltd., Bradford Licensing Associates, Edith Marcus and Meta Stevens (the "Shaw Family").

2. I make this Declaration in connection with the Declaration of David Marcus, dated March 10, 2008, in support of my admission *Pro Hac Vice* to the bar of this Court for the purpose of appearing on a memorandum and arguing a motion, on behalf of the Shaw Family,

before this court challenging the constitutionality of retroactive legislation enacted in California, California Civil Code Section 3344.1, and pending in the New York legislature.

3. As shown in the Certificates of Good Standing collectively annexed hereto as Exhibit A, I am a member in good standing of the Bar of the State of Pennsylvania and the Bar of the District of Columbia.

4. There are no pending disciplinary proceedings against me in any State or Federal Court.

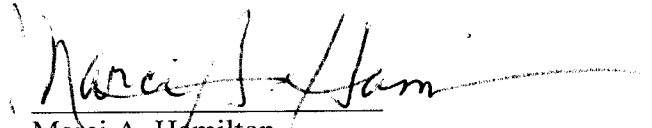
5. Defendants/Consolidated Plaintiffs' counsel was made aware of this motion and have stated that they have no opposition to the *Pro Hac Vice* admission.

6. I am familiar with the facts of the instant case, and it would be in the Shaw Family's interests for me to be permitted to appear and to participate in these proceedings.

7. I am familiar with the Federal Rules of Civil Procedure, and I have familiarized myself with the rules of this Court.

8. I declare under penalty of perjury that the foregoing is true and correct.

Dated: Princeton, New Jersey
March 10, 2008


Marci A. Hamilton
36 Timber Knoll Drive
Washington Crossing, PA 18977
(215) 353-8984



District of Columbia Court of Appeals
Committee on Admissions
500 Indiana Avenue, N.W. — Room 4200
Washington, D. C. 20001
202 / 879-2710

I, GARLAND PINKSTON, JR., Clerk of the District of Columbia Court of Appeals, do hereby certify that

MARCI A. HAMILTON

was on the 2nd day of February, 1990

duly qualified and admitted as an attorney and counselor and entitled to practice before this Court and is, on the date indicated below, an active member in good standing of this Bar.

In Testimony Whereof, I have hereunto subscribed my name and affixed the seal of this Court at the City of Washington, D.C., on February 15, 2008.

GARLAND PINKSTON, JR., CLERK

By: *Michael*
Deputy Clerk



Supreme Court of Pennsylvania

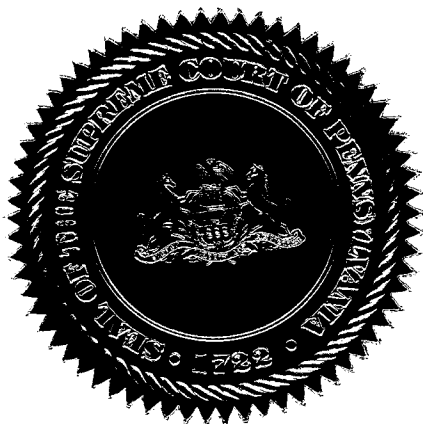
CERTIFICATE OF GOOD STANDING

Marci A. Hamilton, Esq.

DATE OF ADMISSION

May 19, 1989

The above named attorney was duly admitted to the bar of the Commonwealth of Pennsylvania, and is now a qualified member in good standing.



Witness my hand and official seal

Dated: February 19, 2008

A handwritten signature in black ink, appearing to read "John W. Person, Jr.", written over a horizontal line.

John W. Person, Jr., Esq.
Deputy Prothonotary

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ORDER

Upon consideration of the Declaration of Christopher Serbagi and the Declaration of Marci Hamilton, and good cause having been shown, it is SO ORDERED that Marci Hamilton is admitted to the bar of this Court *Pro Hac Vice*, this ____ day of March, 2008, to appear as counsel in the above captioned case for Shaw Family Archives, Ltd., Bradford Licensing Associates, Edith Marcus and Meta Stevens. All attorneys appearing before this Court are subject to the Local Rules of this Court, including the rules governing discipline of attorneys. If this action is assigned to the Electronic Case Filing (ECF), counsel shall immediately apply for an ECF password at nysd.uscourts.gov. Counsel shall forward the *pro hac vice* fee to the Clerk of the Court.

United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CERTIFICATE OF SERVICE

I, David Marcus, hereby certify, under penalty of perjury pursuant to 28 U.S.C. § 1746 that
on this 12th day of March, 2008, I caused to be served by first class mail a true and correct copy of
the Motion for Admission *Pro Hac Vice* of Marci Hamilton and supporting declarations upon:

Loeb & Loeb
Paula Colbath, Esq.
345 Park Avenue
New York, New York 10154

Sovich Minch
Ted Minch, Esq.
10099 Chesapeake Dr,
Mc Cordsville, IN 46055-9579

Dated: New York, New York
March 12, 2008



David Marcus